

Attachment C

[III.v.1.B] **Section B. Statutory Bar to Benefits and Character of Discharge**

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[III.v.1.B.5] **5. General Information on Statutory Bar to Benefits and Character of Discharge Determinations**

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Change Date

March 7, 2006

[III.v.1.B.5.a] **a. Discharge Requirement for Entitlement**

To be eligible for Department of Veterans Affairs (VA) benefits based on the service of a veteran, a discharge under conditions other than dishonorable is required.

A dishonorable discharge or a statutory bar deprives the claimant of all gratuitous VA benefits.

References: For more information on

- conditions of discharge and eligibility for VA benefits, see
 - ☐ 38 CFR 3.12, and

- ☐ 38 CFR 3.13, and
- the definition of the term **veteran**, see ☐ 38 U.S.C. 101(2).

[III.v.1.B.5.b]**b. Character of Discharge is Binding**

An individual is entitled to full rights and benefits of programs administered by VA, unless there is a bar to benefits under ☐ 38 U.S.C. 5303(a). A dishonorable discharge or a statutory bar deprives the claimant of all gratuitous VA benefits. However, the military's characterization of service is binding on VA if the discharge is

- honorable
- under honorable conditions, or
- general.

Exception: A dishonorable discharge or statutory bar is *not* binding on VA if it is determined that the individual was insane when committing the acts which resulted in the discharge.

Reference: For more information on insanity, see ☐ M21-1MR, Part III, Subpart v, 1.E.

[III.v.1.B.5.c]**c. Formal Finding Required**

A formal finding is required to determine the effects of the following on a veteran's benefits:

- an undesirable discharge
- an other than honorable discharge, or
- a bad conduct discharge.

Important: Determinations of status as a veteran must be supported by a preponderance of the evidence. The reasonable doubt rule of ☐ 38 CFR 3.102 does *not* apply in determinations of status.

[III.v.1.B.5.d]**d. Health Care Benefits for Former Military Personnel With Certain Other Than Honorable Discharges**

Effective October 8, 1977, any serviceperson who is discharged under other than honorable conditions is eligible for the health care and related benefits for any disability incurred or aggravated in the line of duty during active service, provided that he/she was not discharged

- by reason of a bad conduct discharge, or
- under one of the statutory bars of ☐ 38 CFR 3.12(c).

Consider any claim which requires review of a statutory bar or preparation of a character of discharge determination as a claim for this benefit.

Reference: For more information on serviceperson eligibility for the health care and related benefits, see ☐ 38 U.S.C. Chapter 17.

[III.v.1.B.5.e]**e. Statutory Bar or Character of Discharge Determinations**

Use the table below to determine the action to take when making a statutory bar or character of discharge determination for health care benefits for former military personnel.

**If there is a living claimant
with an other than
honorable discharge and ...**

Then ...

an unfavorable determination of in the conclusion of the administrative decision include the following eligibility statement: "*The individual [is/is not] entitled*

- statutory bar, or
 - character of discharge
- to health care under chapter 17 of title 38, U.S.C. for any disabilities determined to be service connected."*

Note: If a character of discharge determination without this statement is discovered during routine review of a living claimant's claim folder

- determine eligibility, and
 - annotate the appropriate eligibility statement on the existing determination.
- no statutory bar
- notify the claimant when entitlement to health care is established, and
 - explain that, although conditions surrounding his/her discharge generally preclude payment of VA benefits, there may be eligibility to VA medical care for any disabilities incurred or aggravated during active service.

References: For more information on

- suggested language for notification, see the ☐ MAP-D User Guide, and
- the notification procedures in character of discharge cases, see ☐ M21-1MR, Part III, Subpart v, 1.A.3.

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[III.v.1.B.6] **6. Statutory Bar to Benefits**

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- b. Cases Qualifying for an Administrative Decision
- c. Cases in Which Discharge Was for Alienage
- d. Cases of UA or AWOL

Change Date

March 7, 2006

[III.v.1.B.6.a] **a. Responsibility for Development of Evidence**

The Pre-Determination Team has the responsibility for development of all necessary evidence and preparation of administrative decisions for issues discussed in this chapter.

[III.v.1.B.6.b] **b. Cases Qualifying for an Administrative Decision**

Facts and circumstances furnished by the service department are usually sufficient for an administrative decision when discharge or dismissal is due to any of the following reasons:

- the person was a conscientious objector who refused to perform military duties, wear the uniform, or otherwise comply with lawful orders of competent military authorities

- the sentence of a General Court Martial (GCM)
- the resignation of an officer for the good of the service
- desertion
- discharge was for alienage, and
- unauthorized absence (UA) or absence without leave (AWOL).

Exception: If insanity becomes an issue, full and complete development is needed.

References: For more information on

- insanity, see
 - ☐ M21-1MR, Part III, Subpart v, 1.E, and
 - ☐ 38 CFR 3.12(b)
- cases in which discharge was for alienage, see M21-1MR, Part III, Subpart v, 1.B.6.c, and
- cases of UA or AWOL, see M21-1MR, Part III, Subpart v, 1.B.6.d.

[III.v.1.B.6.c]c. Cases in Which Discharge Was for Alienage

If there was a discharge during a period of hostilities that was not changed to honorable prior to January 7, 1957, determine if the records show that the veteran requested the discharge. If the record

- *shows* that the veteran requested the discharge, it is a bar, otherwise
- does *not* show that the veteran requested the discharge, make a specific request to the service department for this information.

Note: The absence of affirmative evidence in the service department's reply or in the claims folder showing that the veteran requested the release is a sufficient basis for a favorable decision.

Reference: For more information on discharge for alienage, see

- ☐ 38 CFR 3.7(b), and
- ☐ 38 CFR 3.12(c)(5).

[III.v.1.B.6.d]d. Cases of UA or AWOL

Follow the steps in table below to determine the action to take when there is a case with an other than honorable discharge, and continuous period of 180 or more days of either a UA or an AWOL.

Step	Action
1	Obtain the complete military records via the Personnel Information Exchange System (PIES).

Note: The information collected must include the exact dates and nature of the lost time.

Reference: For more information on UA or AWOL, see ☐ 38 CFR 3.12(c)(6).

2	If the service department confirms a continuous period of 180 or more days of UA or AWOL (exclusive of periods of imprisonment or confinement) which led to the other than honorable discharge, then
---	--

- furnish the claimant a notice of proposed adverse action

- explain that a statutory bar to benefits may exist because of unauthorized absence (or absence without official leave) from "[the beginning date of the period]" to "[the ending date of the period]", and
- tell the claimant to notify VA in writing within 60 days if there were compelling reasons to warrant this absence.

3 After 60 days make a decision. Is the decision favorable?

- If *yes*, and a Special Upgraded Discharge has
 - been affirmed by the Discharge Review Board (DRB) under *Public Law (PL) 95-126*, review for statutory bar, or
 - *not* been affirmed by the DRB under *PL 95-126*, make a separate decision on the same administrative decision as to character of discharge under ☐ 38 CFR 3.12(a).
- If *no*
 - make the issue in the formal decision "Statutory Bar Under ☐ 38 U.S.C. 5303(a)" rather than "Character of Discharge," and
 - use the following as the Conclusion: "*The discharge for the period [date] to [date] is a bar to VA benefits under the provisions of 38 CFR 3.12(c)(6) and 38 U.S.C. 5303(a).*"

Important: Do *not* make a separate decision concerning character of discharge since ☐ 38 CFR 3.12(a) is not an issue.

Note: Records added to the Beneficiary Identification and Records Locator Subsystem (BIRLS) from the Veterans Assistance Discharge System (VADS) after October 16, 1975, include the reason for separation. Further development of circumstances of discharge is required, even if there is indication that character of discharge was honorable or general, if the reason code shown in the BIRLS master record is

- T38
- 953
- BEO, or
- DRO.

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[III.v.1.B.7] 7. Character of Discharge Determinations

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- c. Making and Preparing Character of Discharge Determinations
- d. Making a Clemency Discharge Determination
- e. Identifying a Clemency Discharge

Change Date

March 7, 2006

[III.v.1.B.7.a]**a. Responsibility for Character of Discharge Determinations**

The Pre-Determination Team is responsible for developing and determining if an "other than honorable" discharge was granted under conditions other than dishonorable for purposes of eligibility for *a//* VA benefits.

Note: Upon request, the Pre-Determination Team makes these determinations for other agencies, such as the

- U.S. Department of Labor
- U.S. Railroad Retirement Board, and
- State agencies.

Reference: For information on information requests to, or from, other Federal and State agencies, see ☐M21-1-MR, Part III, Subpart iii, 4.

[III.v.1.B.7.b]**b. When Not to Make a Character of Discharge Determination**

Do *not* make a character of discharge determination for VA claim purposes

- before an application from a claimant places the matter at issue
- if there is a separate period of honorable service, which qualifies the person for the benefits claimed
- if there was another period of honorable service prior to the service at issue and the veteran was eligible for, or received, an unconditional discharge unless
 - eligibility to the benefits claimed requires the later period of service, for example, disability incurred during such period, or
 - disability or death pension eligibility requires wartime service and the discharge from such period was under other than honorable conditions.

Reference: For more information on an unconditional discharge, see ☐38 CFR 3.13.

[III.v.1.B.7.c]**c. Making and Preparing Character of Discharge Determinations**

Follow the steps in the table below when making and preparing a character of discharge determination.

Important: Strictly observe the due process provisions listed in ☐38 CFR 3.103.

Step	Action
1	<p>Request the complete summary of the proceedings that led to the discharge from the service department, if the discharge was the result of any of the following offenses:</p> <ul style="list-style-type: none"> • moral turpitude • conviction of a felony • acceptance of an undesirable discharge to escape trial by GCM • willful and persistent misconduct • mutiny or spying, or • homosexual acts.

Reference: For more information on the offenses specified above, see ☐38 CFR 3.12

(d).

- 2 Make a formal determination if the discharge at issue is not specifically honorable or general.

Important:

- In any case involving a discharge issued as dishonorable, there *must* be, minimally, a finding that the issue of the veteran's sanity is *not* involved.
- If the veteran had more than one period of service, include in the determination information covering the periods of satisfactory as well as unsatisfactory service.

Note: Vietnam Era Special Upgraded Discharges require special consideration before a formal determination.

Reference: For more information on Vietnam Era Special Upgraded Discharges, see M21-1MR, Part III, Subpart v, 1.B.9.

- 3 Prepare the formal determination for the approval of the VSCM or designee *not* lower than a coach.

Reference: For more information on preparation of a formal administrative decision for the approval, see ☐ M21-1MR, Part III, Subpart v, 1.A.2.

[III.v.1.B.7.d]**d. Making a Clemency Discharge Determination**

A clemency discharge does not entitle or reinstate entitlement to benefits administered by VA.

Prior to making a determination on service that resulted in a clemency discharge

- develop in accordance with the procedures listed in M21-1MR, Part III, Subpart v, 1.B.7.c, and
- furnish notification in accordance with ☐ M21-1MR, Part III, Subpart v, 1.A.3.

[III.v.1.B.7.e]**e. Identifying a Clemency Discharge**

All copies of a *DD Form 214* granting clemency issued to military absentees under *Presidential Proclamation no. 4313* contain the following statement in the Remarks section: "*Subject member has agreed to serve months alternate service pursuant to Presidential Proclamation No. 4313.*"

In addition, the VA copy of the *DD Form 214*, which goes to the Austin Data Processing Center (DPC) (but not to the dischargee), gives the reason for separation as "*Separation for the good of the service by reason of a willful and persistent unauthorized absence, pursuant to Presidential Proclamation No. 4313.*"

The separation reason code shown in BIRLS is 953 for the cases added to BIRLS from VADS after October 16, 1975. The service department also issued a special type of discharge, a "Clemency Discharge" on *DD Form 1953*, which is a substitute for the previously awarded undesirable discharge.

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[III.v.1.B.8] 8. Effect of Change in Character of Discharge**Contents**

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- c. Recognizing an Honorable or General Discharge Issued by a DRB Intended to Set Aside a Bar

Change Date

March 7, 2006

[III.v.1.B.8.a] a. Decision Made Through Board for Correction of Records or Discharge Review Board

A decision by a service department acting through a Board for Correction of Records is final and binding on VA.

This applies even if a formal determination was previously made by VA concerning a statutory bar under ☐38 CFR 3.12. This also applies if, prior to enactment of *PL 95-126* on October 8, 1977, a service department acting through a DRB changed the character of discharge.

Exception: A change in character of discharge through a DRB is not final and binding on VA when there is a bar because the discharge was due to the sentence of a GCM per ☐38 CFR 3.12(c)(6) and ☐38 CFR 3.12(f).

[III.v.1.B.8.b] b. Effect of a Change in Character of Discharge

Do *not* make a formal determination to void the earlier determination. Annotate the prior determination to show that it has been superseded by a later corrected discharge.

Make a formal determination if the corrected character of discharge is

- other than honorable, and
- requires reconsideration and redetermination.

Determine the effective date of the determination per ☐38 CFR 3.400(g).

[III.v.1.B.8.c] c. Recognizing an Honorable or General Discharge Issued by a DRB Intended to Set Aside a Bar


VA does *not* recognize an honorable or general discharge issued by a DRB intended to set aside a bar under ☐38 CFR 3.12(c), on or after enactment of *PL 95-126*, October 8, 1977.

Exception: Only favorable action by a Board for Correction of Military Records will overcome a bar under ☐38 CFR 3.12(c). If such an upgraded discharge is received, examine the claim for the existence of a statutory bar.

Note: This provision also applies to those discharges issued prior to October 8, 1977, under the special review program, even if a later review by a DRB confirms that the upgrading was warranted under the uniform published review criteria.

Reference: For more information on this policy, see

- ☐38 CFR 3.12(g), and
- ☐38 CFR 3.12(h).

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[III.v.1.B.9] **9. Identifying Vietnam Era Special Upgraded Discharges and Discharge Review Board (DRB) Second Review**

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Change Date

March 7, 2006

[III.v.1.B.9.a] **a. Guidelines of PL 95-126**

In addition to a requirement that the Department of Defense (DoD) establish a set of uniform procedures and standards for use by DRBs, *PL 95-126* also prohibits payment of VA benefits based solely on a discharge upgraded under

- the Presidential Memorandum of January 19, 1977, or
- the DoD Special Discharge Review Program.

Reference: A detailed discussion of *PL 95-126* and administrative review procedures is presented in *DVB Circular 20-78-18*. The criteria for the second discharge review is explained in *DoD Directive 1332.28*.

[III.v.1.B.9.b] **b. Elements That Assist in Identifying Upgraded Discharges**

Use the table below for descriptions of elements that assist in identifying upgraded discharges.

Type of Upgrade	Element	Description
All	9A on <i>DD Form 214</i>	Contains "Discharge."
	9F on <i>DD Form 214</i>	Contains "Certificate Issued."
	13 on <i>DD Form 214</i>	(Reserve Obligation) contains "NA."
	21 and 27 of <i>DD Form 214</i>	Shows 30 days or more time lost.
	29 on <i>DD Form 214</i>	Contains no signature of person separated.
Issued as a result of the Presidential Memorandum of January 19, 1977	Item 27 on copy 3 (VA copy) of corrected <i>DD Form 214</i>	Contains a statement to the effect that the discharge was upgraded to "under honorable conditions" by the January 19, 1977, extension of Presidential Proclamation 4313 by virtue of being wounded in combat or decorated for valor

		in Vietnam.
	The BIRLS record	Was established, or updated to show <ul style="list-style-type: none"> the type of discharge as HONORABLE, and the separation reason as BEO (By Executive Order).
Issued as a result of the DoD Special Discharge Review Program	The VA copy (copy 3) of the corrected <i>DD Form 214</i>	Contains the narrative reason for separation as " <i>Upgraded under the DoD Discharge Review Program (Special)</i> " and also indicates <ul style="list-style-type: none"> the date the individual first applied for discharge upgrade the date the discharge was upgraded, and the character of service (discharge) prior to upgrade.
	The BIRLS record	Established or updated to show <ul style="list-style-type: none"> the type of discharge as HONORABLE, and the separation reason as <ul style="list-style-type: none"> DRO (Discharge Review? prior discharge "Under Conditions Other Than Honorable)", or DRG (Discharge Review? prior discharge "Under Honorable Conditions," commonly called general).

[III.v.1.B.9.c]c. **Cases Exempt From PL 95-126**

Veterans are exempt from the procedures applicable to special upgraded discharges who had

- general or under honorable conditions discharges upgraded by the special review program (BIRLS separation reason DRG), or
- filed a claim for VA benefits based on other than honorable discharges and had received a favorable character of discharge determination prior to enactment of *PL 95-126*, effective October 8, 1977.

[III.v.1.B.9.d]d. **Eligibility for DRB Second Review**

A Vietnam Era veteran may request that the DRB perform a second review of a character of discharge determination that was made. The second review was done automatically for all veterans whose discharges were upgraded under one of the special programs.

To be eligible for the DRB second review, the veteran must have

- served between August 4, 1964, and March 28, 1973
- been released with an "other than honorable" (formerly known as "undesirable") discharge, and
- been issued an upgraded discharge on or after January 19, 1977, under the provisions of the
 - Presidential Memorandum of January 19, 1977, or
 - the DoD Special Discharge Review Program.

[III.v.1.B.9.e]e. Narrative of Decision on DD Form 215

The narrative summary of the decision of the Discharge Review Board's second review should be released on DD Form 215. The following table shows the commonly used language for favorable and unfavorable decisions.

Criteria	Narrative Decision on DD Form 215
USN/USMC favorable second review	Discharge review under PL 95-126 and a determination has been made that characterization of service is warranted by DOD Directive 1332.28.
USN/USMC unfavorable second review	Discharge review under PL 95-126 and a determination has been made that characterization of service is warranted by DOD SDRP 4 Apr 77.
USA/USAF favorable second review	Discharge review under PL 95-126 and a determination has been made that a change in characterization of service is warranted by DOD Directive 1332.28.
USA/USAF unfavorable second review	Discharge review under PL 95-126 and a determination has been made that characterization of service was warranted by DOD SDRP 4 Apr 77.

[III.v.1.B.9.f]f. Responsibility for Determining Eligibility to Benefits After a DRB Second Review

VA retains final responsibility for determining if eligibility for VA benefits exists. Use the table below to determine what rights VA retains when the DRB conducts a second review.

If a second review required by PL 95-126 was ...	Then VA retains the right to ...
favorable (upgrade of the veteran's discharge was upheld) but one of the statutory bars of <input type="checkbox"/> 38 CFR 3.12(c) exists	deny eligibility.
unfavorable, but	establish entitlement to benefits.
<ul style="list-style-type: none"> • a character of discharge determination finds that the veteran's original other than honorable discharge was issued under conditions other than dishonorable, and • no statutory bar exists 	

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[III.v.1.B.10] **10. Handling and Processing DRB Decisions**

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Change Date

March 7, 2006

[III.v.1.B.10.a] **a. Handling Unfavorable DRB Decisions**

If the DRB decision is unfavorable, eligibility to VA benefits rests on the merits of the original "other than honorable" discharge.

Follow due process procedures and make another administrative decision even if the claims folder contains an unfavorable administrative decision made prior to the issuance of the adverse DRB decision.

[III.v.1.B.10.b] **b. Handling Favorable Determinations**

Carefully review the full service records and determine if the former service member was discharged or released under one of the following conditions listed in ☐ 38 CFR 3.12(c):

- as a conscientious objector who refused to
 - perform military duty
 - wear the uniform, or
 - comply with lawful order of competent military authorities
- by reason of the sentence of a GCM
- resignation by an officer for the good of the service
- as a deserter
- as an alien during a period of hostilities, where it is affirmatively shown that the former service member requested his/her release, and
- by reason of a discharge under other than honorable conditions issued as a result of an AWOL for a continuous period of at least 180 days.

Reference: For more information on aliens, see ☐ 38 CFR 3.7(b).

[III.v.1.B.10.c] **c. 38 CFR 3.12(c) Not a Factor**

If a previous administrative decision held that the character of discharge was not other than dishonorable, annotate that decision to show the date of the

- application for discharge review
- initial upgrade, and
- affirmed upgrade.

[III.v.1.B.10.d]d. 38 CFR 3.12(c) a Possible Factor

Follow the steps in the table below to process a favorable DRB decision when the veteran was not discharged under one of the conditions listed in ☐ 38 CFR 3.12(c).

Step	Action
1	Provide the claimant with a due process notice prior to making an administrative decision.
2	Following receipt of any evidence from the claimant or the expiration of 60 days, whichever is earlier <ul style="list-style-type: none"> • review the case and prepare an administrative decision • cite <input type="checkbox"/> 38 CFR 3.12(h) in the administrative decision as the authority for reexamining a DRB decision.
3	If the individual's discharge was issued under conditions that prevent payment of VA benefits, discuss and resolve the issues of <ul style="list-style-type: none"> • a possible conditional discharge, and • entitlement to <input type="checkbox"/> 38 U.S.C. Chapter 17 medical benefits in the same administrative decision.

References: For more information on

- eligibility requests for health care benefits under ☐ 38 U.S.C. Chapter 17, see
 - M21-1MR, Part III, Subpart v, 1.B.5.d, and
 - M21-1MR, Part III, Subpart v, 1.B.5.e, and
- conditional discharge, see M21-1MR, Part III, Subpart v, 1.B.11.

Notes:

- Unless a valid conditional discharge for a separate period of service is established, eligibility to health care benefits under ☐ 38 U.S.C. Chapter 17 must be denied if a statutory bar exists.
- A Special Upgraded Discharge that is affirmed by a DRB under *PL 95-126* is an honorable discharge for purposes of entitlement to unemployment compensation under ☐ 5 U.S.C. 85. This is true even if a statutory bar exists under ☐ 38 CFR 3.12(c)(6).

[III.v.1.B.10.e]e. Assigning Effective Dates for Compensation and Pension Benefits

Authorize payments from the date

- an application for review of discharge was filed with the service department, or
- the claim was filed with VA, whichever is later.

Reference: For information on the provisions that should be applied when authorizing payments, see

- ☐ 38 CFR 3.400(b), and
- ☐ 38 CFR 3.400 (g).

Important:

- January 19, 1977, is considered the date of application for all discharges upgraded under the

Presidential Memorandum of January 19, 1977.

- Use the date the original application was filed with the service department for DoD Special Review Board cases.
- If a previously disallowed claim is reopened based on a change in the character of discharge, authorize payments from the latest of the following dates:
 - one year prior to receipt of the reopened claim
 - the date on which the application for review of discharge was filed with the service department, or
 - the date of receipt of the previously disallowed claim.

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[III.v.1.B.11] **11. Conditional Discharges and Uncharacterized Discharges**

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Change Date

March 7, 2006

[III.v.1.B.11.a] **a. Provisions of 38 U.S.C. 101(18)**

☐ 38 U.S.C. 101(18) provides that an individual who enlisted or reenlisted before completion of a period of active service can establish eligibility to VA benefits if he/she satisfactorily completed the period of active service for which he/she was obligated at the time of entry.

The provisions of ☐ 38 U.S.C. 101(18) apply even if

- the subsequent discharge was under dishonorable or other than honorable conditions, or
- a statutory bar exists for entitlement to benefits for the later period of service.

[III.v.1.B.11.b] **b. Development for Conditional Discharge**

If the application, service records, or *DD Form 214* shows that prior active service exists

- send a code 001 PIES request to the appropriate service department. The request
 - asks if the veteran was eligible for complete separation prior to the date of dishonorable or other than honorable discharge. If not,
 - asks to state the date(s) on which this claimant completed the period(s) of active service for which he or she was obligated at the time(s) of induction or reenlistment, and
- at the same time, request service records, including any Board of Officers proceedings or court-martial proceedings using PIES code O10.

[III.v.1.B.11.c] **c. Making a Character of Discharge Determination**

Use the table below when making a character of discharge determination for conditional discharge.

If ...	Then ...
development discloses a prior period of honorable service which would qualify the claimant for the benefit requested	adjudicate the claim on that basis.
Example: The individual was eligible for a complete discharge at some time in the past.	
development does not disclose a prior period of honorable service which would qualify the claimant for the benefit requested	prepare a statutory bar determination, or character of discharge determination.
<ul style="list-style-type: none"> • there is a statutory bar, or • the last discharge or release was under dishonorable conditions for VA purposes 	<ul style="list-style-type: none"> • discuss in the same administrative decision, the issue of conditional discharge, and • consider whether the former service member had faithful and meritorious service through the period of active duty for which he/she was obligated at the time of induction or enlistment.

Notes:

- If the individual had several enlistments
 - begin with the initial enlistment or induction, and
 - end with the date given by the service department as the completion date for the last full enlistment.
- If the last enlistment period does not meet the faithful and meritorious service criteria, drop it and use the next-to-last enlistment period as the completion of service date.

[III.v.1.B.11.d] **d. Assigning Effective Dates**

Type of Dates	Procedure
Presumptive Periods	<ul style="list-style-type: none"> • Treat the scheduled, that is the conditional, discharge date as <ul style="list-style-type: none"> ◦ certified by the service department, and ◦ authorized by the character of discharge determination as if the veteran were actually given a complete and honorable separation, and • measure all presumptive periods and any other issue that relates to date of discharge or release from that point.

Date of Payment If a conditional discharge is established, apply the provisions of ☐38 CFR 3.114(a) to determine the effective date.

Note: The effective date may not be earlier than October 8, 1977.

[III.v.1.B.11.e]e. Uncharacterized Separations

In cases in which enlisted personnel are administratively separated from service on the basis of proceedings initiated on or after October 1, 1982, the separation may be classified as one of following three categories of administrative separation:

- entry level separation
- void enlistment or induction, and
- dropped from the rolls.

Important: These three categories do not require characterization of service by the service department.

Reference: For more information on uncharacterized separations, see ☐38 CFR 3.12(k).

[III.v.1.B.11.f]f. Action to Take for Uncharacterized Separations

Use the table below for the actions the VSR must take for the three categories of administrative separation.

Type of Separation	Action
Entry Level Separation	<ul style="list-style-type: none"> • Consider uncharacterized separations of this type to be under conditions other than dishonorable. • No administrative decision is required. <p>Reference: For information on the effect of entry level separation based upon fraudulent enlistment on the status as a veteran, see <input type="checkbox"/>VAOPGCPREC 16-99.</p>
Void Enlistment or Induction	<ul style="list-style-type: none"> • Review uncharacterized separations of this type based on facts and circumstances surrounding separation, with reference to the provisions of <input type="checkbox"/>38 CFR 3.14 to determine whether separation was under conditions other than dishonorable. • Prepare an administrative decision.
Dropped from the Rolls	<ul style="list-style-type: none"> • Review uncharacterized administrative separations of this type based on facts and circumstances surrounding separation to determine whether separation was under conditions other than dishonorable. • Prepare an administrative decision.

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